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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

5 * * *

6 Kevin Rizzi,

7 Plaintiff,

8 v.

9 Keller Williams, et al.,

10 Defendants.

Case No. 2:23-cv-01721-GMN-DJA

Report and Recommendation

11 On July 23, 2024, the Court noted that Plaintiff had not filed proof of service as to any
12 Defendant and that Plaintiff's proof of service was overdue. (ECF No. 18). The Court thus
13 ordered Plaintiff to show cause why the Court should not recommend dismissal of the action
14 under Federal Rule of Civil Procedure 4(m) and gave Plaintiff until August 22, 2024, to file a
15 response. To date, Plaintiff has not filed anything further in this action. *See* Fed. R. Civ. P.
16 4(m)("[i]f a defendant is not served within 90 days after the complaint is filed, the court—on
17 motion or on its own after notice to the plaintiff—must dismiss the action without prejudice
18 against that defendant or order that service be made within a specified time.").

19
20 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
21 prejudice. The Clerk of Court is kindly directed to send this recommendation to Plaintiff.

22
23 **NOTICE**

24 Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be
25 in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The
26 Supreme Court has held that the courts of appeal may determine that an appeal has been waived
27 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142
28 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to

1 file objections within the specified time and (2) failure to properly address and brief the
2 objectionable issues waives the right to appeal the District Court's order and/or appeal factual
3 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991);
4 *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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6 DATED: September 10, 2024

A handwritten signature in blue ink, appearing to read 'D. Albrechts', is written over a horizontal line.

DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE